

REMARKS

Applicants thank the Examiner for the telephone interview of August 18, 2010.

Rejections under 35 U.S.C. § 112, first paragraph

Claims 3-4 and 10 are rejected under 35 U.S.C. § 112, first paragraph, for allegedly failing to comply with the written description requirement. The Office Action alleges that claims 3 and 4 contain a newly introduced proviso that is new matter. Applicants respectfully disagree. As discussed with the Examiner in the telephone interview, the compounds recited in claims 3 and 4 find support in original claim 5. Reconsideration and withdrawal of the rejection is respectfully requested.

Double Patenting

Claims 1-4 and 10 are rejected for obviousness-type double patenting over claims 1 and 2 of U.S. Pat. No. 7,550,495 (the '495 patent). Applicants respectfully disagree for the reasons stated in the previous response dated May 7, 2010. Nonetheless, in order to expedite prosecution, Applicants submit herewith a Terminal Disclaimer. Accordingly, the rejection is moot. Withdrawal of the rejection is respectfully requested.

Claims 1-4 and 10 are provisionally rejected for obviousness-type double patenting over claims 1-4 and 10 of co-pending Application No. 10/572,825, over claims 1-4 and 10 of co-pending Application No. 10/572,826, over claims 1-8 and 13 of co-pending Application No. 12/466,415 and over claims 1-6 and 12 of co-pending Application No. 11/575,691. Application Nos. 10/572,825, 10/572,826 and 11/575,691 are abandoned as shown in the Image File Wrapper of Private PAIR for each application. Therefore the rejection with respect to these applications is moot.

As to Application No. 12/466,415, in the case of two co-pending applications, MPEP § 804 (I)(B)(1) states “If a ‘provisional’ nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that

rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer.”

The present application is a national stage application of international application no. PCT/GB2004/004124 filed September 24, 2004. Application No. 12/466,415 is a divisional of Application No. 11/419,603 which is a continuation of international application no. PCT/SE2005/001403 filed September 22, 2005. Therefore the present application is the earlier filed of the two pending applications. As shown in the Image File Wrapper in Private PAIR, an Office Action was issued for Application No. 12/466,415 on December 16, 2010 rejecting claims 14, 16 and 18-22 for allegedly failing to comply with the enablement requirement and rejecting claim 19 for alleged obviousness. Because the Patent Office has found the claims of Application No. 12/466,415 to be rejectable on other grounds, the Examiner should withdraw the obviousness-type double patenting rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer. Accordingly, Applicants respectfully request that the provisional double patenting rejection over the claims of Application No. 12/466,415 be withdrawn once the present claims are otherwise found allowable.

CONCLUSION

For at least the above reasons, Applicants respectfully request withdrawal of the rejections and allowance of the claims.

Accompanying this response is a petition for a three-month extension of time to and including December 27, 2010 pursuant to 37 CFR § 1.7(a) to respond to the Office action mailed June 25, 2010, and accompanied by the fee required under 37 CFR § 1.17(a)(1), which is paid herewith by credit card. No additional fee is believed due. However, if any additional fee is due, the Director is hereby authorized to charge our Deposit Account No. 03-2775, under Order No. 15652-01309-US from which the undersigned is authorized to draw.

Respectfully submitted,

By / Joseph A. Ciardi /

Joseph A. Ciardi

Registration No.: 64,760

CONNOLLY BOVE LODGE & HUTZ LLP

1007 North Orange Street

P. O. Box 2207

Wilmington, Delaware 19899-2207

(302) 252-3628

(302) 658-5614 (Fax)

Agent for Applicants

791744